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17 Attorneys for Defendant
18 HUGO MENDOZA

19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA

21 DAVID BATISTE,) Case No. 3:22-CV-01188 AMO
22)
23 Plaintiff,) DEFENDANTS' JOINT RESPONSE RE
24 vs.) SUBMISSION OF LACHES AND UNCLEAN
25) HANDS DEFENSES TO THE JURY;
26 CITY OF RICHMOND; HUGO) FURTHER INSTRUCTIONS AND VERDICT
27 MENDOZA; et al.,) FORM
28)
Defendants.)
29) Trial Date: 09/16/2024, 8:30 a.m.
30) Location: Courtroom 10, 19th Floor
31) San Francisco
32)

33 _____
34 This submission is in response to the Court's Order directing Defendants to file further
35 proposed jury instructions on their affirmative defenses of laches and unclean hands, as the Court
36 seeks the jury's advisory opinion on these issues. (Dkt. 291, 9/11/24). Previously, the Court ordered
37 Defendants to submit briefing as to why these affirmative defenses should not be resolved prior to

1 trial. (Dkt. 214, 6/7/24). Defendants submitted briefing regarding the nature, elements and proof
 2 needed to sustain these equitable defenses. (Dkt. 218, 6/14/24). At the pretrial conference on June
 3 25, 2024, the Court ordered Defendants to submit jury instructions or jury interrogatories involving
 4 factual determinations related to these equitable defenses. Upon further research, Defendant City of
 5 Richmond submitted a statement that the factual determinations supporting these defenses are for the
 6 court, not the jury, with supporting authorities. Defendant did not intend to propose jury instructions
 7 or jury interrogatories. (Dkt. 237, 7/16/24). In a further Order, the Court directed the parties to
 8 submit a joint statement whether the applicable evidence on these equitable defenses would be
 9 submitted during trial or outside of trial and how the parties would supply the law to the Court. (Dkt.
 10 244, 7/22/24). The parties responded that the evidence would be presented at trial, as it overlaps with
 11 elements of other claims and defenses, and would supply briefing for the Court within 10 days of the
 12 jury's verdict. (Dkt. 251, 7/31/24).

13
 14 The attached jury instructions and amended verdict form are submitted to comply with the
 15 Court's recent order, but over Defendants' objection that there is no right to jury trial on equitable
 16 defenses. (Dkt. 237).

17
 18 DATED: September 16, 2024 MALONEY EMPLOYMENT LAW

19
 20 /s/ *C. Christine Maloney*

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 22 C. Christine Maloney
 Attorney for Defendant
 City of Richmond

23
 24 DATED: September 16, 2024 ALLEN GLAESSNER HAZELWOOD & WERTH LLP

25
 26 /s/ *Peter O. Glaessner*

27
 28 Peter O. Glaessner
 Kellen Crowe
 Attorneys for Defendant
 Hugo Mendoza

CERTIFICATE OF CONCURRENCE

Pursuant to Civil Local Rule 5-1 regarding signatures, I attest that concurrence in the filing of this document has been obtained from the other signatories.

DATED: September 16, 2024

MALONEY EMPLOYMENT LAW

/s/ C. Christine Maloney

C. Christine Maloney
Attorney for Defendant
City of Richmond